

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.)
) CRIMINAL NO.: 21-0054-RDB
MEDARD ULYSSE,)
)
Defendant.)
_____)

Transcript of Proceedings
Before the Honorable Richard D. Bennett
Friday, September 23rd, 2022
Baltimore, Maryland

Appearances:

For the Plaintiff:

Sean Delaney, AUSA
Evelyn Cusson, AUSA
Office of the United States Attorney
36 S. Charles Street, Fourth Floor
Baltimore, Maryland 21201

For the Defendant:

Richard Bardos, Esquire
Schulman, Hershfield and Gilden PA
1 E. Pratt Street, Suite 904
Baltimore, Maryland 21202

Also Present: Special Agent Jason Bender, FBI
Special Agent Adam Martin, DOL/OIG

Court Reporter: Christine T. Asif, RPR, FCRR

1 (2:58 p.m.)

2 P R O C E E D I N G S

3 THE COURT: Good afternoon, everyone. This is
4 calling the case of United States versus Medard Ulysse,
5 criminal number RDB-22 -- I'm sorry 21-054. And we have a
6 second case that's been filed now as of today, which is
7 22-0335. And we have a shopping list of things to attend to,
8 as well as going over some procedural postures here. And I
9 understand that there may or may not be a guilty plea entered
10 here. And I will determine whether or not I will accept the
11 guilty plea. And we'll also be going over conditions of
12 release, because there's been a lot of confusion over this
13 case over the last few days. And we're going to straighten
14 this case out a little bit.

15 So with that I would note that the masking policies
16 of this court require that masks be worn in all public areas
17 of the courthouse with the exception of the courtrooms, we're
18 under the discretion of the presiding judge masks may be
19 pulled down if those who have been fully vaccinated. I'm here
20 on the bench with my mask pulled down I have been fully
21 vaccinate and boosted, in fact, received my second booster
22 yesterday. And I am behind a wall of plexiglass, so I will
23 not be wearing a mask. I will inquire of the vaccination
24 status of the participants here today. And you don't have to
25 pull your mask down, but you may if you're addressing the

1 court, it's easier for Ms. Asif the court reporter, along with
2 keeping pace with a quick moving judge up here to also have to
3 interpret what people are saying behind masks.

4 So with that if counsel would identified themselves
5 for the record, please.

6 MR. DELANEY: Good afternoon, Your Honor. Sean
7 Delaney on behalf of the United States, I am fully vaccinated
8 and boosted.

9 THE COURT: Yes, Mr. Delaney, nice to see you.

10 MR. DELANEY: And with me at counsel table is the
11 newest member of the public corruption section, AUSA Evelyn
12 Cusson.

13 THE COURT: Yes, Ms. Cusson, nice to see you. Well,
14 she's been with the U.S. Attorney's Office for a while.

15 MS. CUSSON: I have.

16 THE COURT: But now you're in the fraud section. So
17 it's nice to see you Ms. Cusson. Welcome.

18 MS. CUSSON: Thank you.

19 THE COURT: Hold on one second here. And Ms. Cusson
20 will be trying the case with you when the case proceeds to
21 trial, certainly as to any other defendants?

22 MR. DELANEY: If not Ms. Cusson then AUSA Goo.

23 THE COURT: I'm sorry?

24 MR. DELANEY: If not Ms. Cusson then AUSA Christine
25 Goo will be.

1 THE COURT: Okay. That's fine. So with that you
2 all may be seated. We have with us Jason Bender and Adam
3 Martin, and they are from what agency, I'm sorry? I don't see
4 what agency they're from.

5 MR. DELANEY: Thank you, Your Honor, Special Agent
6 Jason Bender with the Federal Bureau of Investigation, and
7 Special Agent Adam Martin with the Department of Labor, Office
8 of Inspector General.

9 THE COURT: Nice to have both of you here. Welcome.
10 Welcome to both of you. And I don't know that they'll be
11 speaking, but have both of you gentlemen been fully
12 vaccinated?

13 MR. BENDER: I have Your Honor.

14 MR. MARTIN: Yes Your Honor.

15 THE COURT: Nice to have you here. Nice to have you
16 here. And on behalf of the defendant.

17 MR. BARDOS: Yes. Good afternoon, Your Honor.
18 Richard Bardos representing Medard Ulysse who is present to my
19 right.

20 THE COURT: Yes, Mr. Bardos, nice to see you. And
21 you are court-appointed; correct?

22 MR. BARDOS: Yes, sir.

23 THE COURT: Thank you for taking this appointment.

24 And good afternoon to you, Mr. Ulysse.

25 THE DEFENDANT: Good afternoon.

1 THE COURT: Sir, are you been fully vaccinated?

2 THE DEFENDANT: I am.

3 THE COURT: All right. You don't need to pull your
4 mask down while speaking, but you can if you want to. You
5 don't have to. Let me just make a note here. The U.S.
6 probation officer assigned to this case, I don't know if a
7 U.S. probation officer is here or not. Who is the U.S.
8 probation officer assigned to this case?

9 MR. BARDOS: I believe it's Nicole Wonneman, she
10 advises she was not able to be here today.

11 THE COURT: All right. Well, that's understandable,
12 we have -- we had scheduled this matter -- docket sheet. I
13 had the docket sheet up here, I don't know where it is. Thank
14 you very much Ms. Tyson. We had scheduled this matter
15 previously for a guilty plea earlier in the week, I believe.
16 And then I received word that the defendant had first we --
17 just so the procedural history is correct, Mr. Bardos, if I'm
18 incorrect correct me. The matter was scheduled for
19 re-arraignment. And then I was notified Mr. Ulysse was not
20 able to afford to return here and we went through the process
21 of setting up a Zoom re-arraignment and got his consent to
22 proceed by Zoom. And indeed, that was paper No. 122 that was
23 filed on September the 19th, Monday of this week.

24 And then I was notified that he was not going to
25 plead guilty by Zoom or any other means. So then he indicated

1 he wanted another attorney, was going to retain another
2 attorney. I didn't understand how he couldn't afford to come
3 here to Baltimore but represent to the Court he was going to
4 retain a attorney. So finally the record will reflect that I
5 ordered that he physically be here in this courthouse at 2:30
6 today -- we're starting late -- at 2:30, where he was to
7 appear in front of Magistrate Judge Copperthite for an
8 attorney inquiry. And then I was advised in the interim that
9 he was going to appear here in this courtroom at 2:30 and not
10 before Judge Copperthite because he was going to enter a plea
11 of guilty have. So have I correctly summarized the procedural
12 posture up to this point?

13 MR. BARDOS: Yes, sir.

14 THE COURT: All right. Mr. Ulysse I'm going to go
15 over it carefully here, because I'm going to go over this case
16 A to Z, your conditions of release, and this case is coming to
17 trial and I'm a little mystified by the procedural history
18 here. So we'll see if I accept a guilty plea, and we'll see
19 what the conditions of release are, and exactly how we're
20 going to move forward on this case do you understand that.

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: And I'm going to place you under oath
23 and if you lie or make any misrepresentations to me totally
24 separate from the charges in this case you can be prosecuted
25 for perjury or lying, do you understand that?

1 THE DEFENDANT: Yes, I do, Your Honor.

2 THE COURT: All right. So with that let me just go
3 over the procedural posture, I think where we are, but I'm
4 just not sure. First of all, we have a second charge that's
5 being filed here. As of an hour ago having been filed. And
6 we have a criminal information that my assistant literally
7 took down to the clerk's office a few minutes ago that charges
8 the defendant with an additional crime, which is referenced in
9 the plea agreement letter, which I'm assuming is still
10 operative, it may or may not be, and we'll have to determine
11 that in a minute here.

12 The plea agreement letter, if the plea goes forward
13 today, references not only Count 1 of the current indictment
14 in criminal number RDB-21-0054, but also a separate criminal
15 information, which has been referenced in a letter of July 22.
16 And although there's a reference to the criminal information
17 on July 22, that criminal information has now just been filed
18 within the last half hour here on September the 23rd. You
19 have a right to a determination of probable cause as to any
20 charge against you, Mr. Ulysse. Am I pronouncing your name
21 correctly, sir?

22 THE DEFENDANT: Ulysse, yes, sir.

23 THE COURT: You have a right to a determination of
24 probable cause, meaning the government can not just charge you
25 with a crime without a determination of probable cause, either

1 by way of a grand jury indictment, as was the case in the
2 indictment in chief here, where members of the community some
3 23 people determine whether or not there's probable cause to
4 believe that you committed an offense, or by way of a
5 preliminary hearing.

6 And it's my understanding that we're proceeding as
7 to the second charge by criminal information. And it is a
8 one-count criminal information charging you with essentially
9 wire fraud in connection with unemployment insurance. And it
10 has been filed now as paper No. 1 in case No. 22-0335. Have
11 you seen this criminal information Mr. Bardos.

12 MR. BARDOS: Yes, sir.

13 THE COURT: Okay. Have you read -- have you gone
14 over it with him.

15 MR. BARDOS: Yes, sir.

16 THE COURT: Let me go over what the charges are with
17 you, Mr. Ulysse. I think in light of the posture of this case
18 we're going to read it verbatim. I'm going to read the entire
19 matter to you, to make sure you understand there's no
20 confusion about it, okay?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: It charges that you were a resident of
23 Miami, Florida. That the unemployment insurance with respect
24 to the state of Maryland was a joint state and federal program
25 that provided monetary benefits to eligible beneficiaries.

1 And the unemployment insurance payments were intended to
2 provide temporary financial assistance to lawful workers who
3 were unemployed through no fault of their own. And it is
4 charged that beginning in or around March of 2020, in response
5 to the COVID-19 pandemic, several federal programs expanded
6 the unemployment insurance eligibility and increased
7 unemployment insurance benefits, including the Pandemic
8 Unemployment Assistance Program and the Federal Pandemic
9 Unemployed Compensation and Lost Wages Assistance Program.

10 In Maryland a former employee of a business who has
11 lost his or her job can contact the Maryland Department of
12 Labor and submit a claim for unemployment insurance. And
13 claims for unemployment insurance benefits are commonly
14 submitted electronically through the use of the internet and
15 internet capable computers or other electronic devices. If
16 the former employee meets certain requirements, including
17 having received sufficient wages prior to separation they
18 become eligible to receive unemployment insurance benefits.

19 Prior to April of 2021, if the Maryland Department
20 of Labor approved an unemployment insurance claim, Bank of
21 America pursuant to a contract with the Maryland Department of
22 Labor, would create and mail -- could create and mail a Bank
23 of America prepaid Visa debit card with the claimant's name on
24 it. The claimant based on the -- to the claimant based upon
25 information received from the Maryland Department of Labor.

1 And the Maryland Department of Labor would subsequently
2 authorize the electronic application of uninsurance benefits
3 to the debit card and continue to do so on a periodic basis if
4 the claimant continued to apply for benefits.

5 Now the scheme that's charged here -- and I've
6 essentially gone verbatim thus far. The scheme that is
7 charged here is that from July 2020, through November 2020,
8 here in the district of Maryland and elsewhere, that you
9 Mr. Ulysse, Medard Ulysse, devised and executed a scheme to
10 obtain unemployment benefits and other property by means of
11 false and fraudulent pretenses, representations, and promises.
12 And it is alleged that you obtained and attempted to obtain
13 money, merchandise, and other property by submitting false
14 applications in the names of identity theft victims claiming
15 unemployment benefits to which you and others were not
16 entitled.

17 And it is alleged that you, submitted these
18 fraudulent claims for unemployment benefits through the
19 internet to the Maryland Department of Labor, the California
20 Employment Development Department, and other state work force
21 agencies. These fraudulent applications listed individual
22 victims' names, Social Security numbers, and dates of birth.
23 And the Maryland Department of Labor and other state work
24 force agencies disbursed benefits through debit cards issued
25 in the names of applicants and mailed to addresses provided in

1 the applications.

2 It is further alleged that by completing and
3 submitting these false applications for benefits in the names
4 of identity theft victims, that you caused the issuance of
5 debit cards in the victim's names and the mailing of those
6 cards to locations in Maryland and elsewhere, which were
7 accessible to you and others.

8 And it is further charged, it was part of the scheme
9 to defraud that between July 2020 and November of 2020, in the
10 District of Maryland and elsewhere, that you Mr. Ulysse,
11 conducted fraudulent transactions through use of debit cards
12 issued in the names of at least six identity theft victims,
13 and funded with unemployment compensation, including Federal
14 Pandemic Unemployment Compensation and Lost Wages Assistance
15 Program compensation -- just look here -- or actually Pandemic
16 un -- Assistance Program is charged there. Each debit card
17 displayed a victim's name.

18 The unemployment benefits were disbursed by the
19 Maryland Department of Labor and other state workforce
20 agencies as a result of fraudulent claims made in the victim's
21 names by you, Mr. Ulysse, and others. And it's alleged that
22 you were aware that the real person's identities were being
23 used to file the fraudulent unemployment claims and that the
24 debit cards were used in the names of real persons.

25 You're charged in a one-count criminal information

1 with wire fraud, in paragraphs 1 through 7 that I've just read
2 of this information, I'll incorporated it by reference therein
3 to paragraph 8, and it is specifically charged that on or
4 about September 26, 2020, that you, for the purpose of
5 executing and attempting to execute the scheme to defraud the
6 Maryland Department of -- well, it says Maryland DLLR,
7 Maryland Department of Labor and Licensing Regulation. Right?
8 I don't see that there's a reference to it earlier in the
9 criminal information.

10 MR. DELANEY: Your Honor, I think that's an error.
11 I think that should be Maryland Department of Labor, the DLLR
12 was the predecessor name.

13 THE COURT: I will amend that here. We'll have to
14 make sure he initials this.

15 MR. DELANEY: Thank you, Your Honor.

16 THE COURT: So it should be the Maryland Department
17 of Labor, of money by means of materially false and fraudulent
18 pretenses, representations, and promises as set forth above,
19 and that you did knowingly transmit and cause to be
20 transmitted in interstate commerce by means of wire
21 communications, certain writing, signs, signals, and sounds,
22 namely an ATM withdrawal from a Bank of America account
23 located in Baltimore, Maryland, in order to fraudulently
24 obtain funds using a Visa prepaid debit card in the name of an
25 individual initials A.C.

1 And then there's a forfeiture allegation with
2 respect to upon a conviction in this matter that the defendant
3 shall forfeit any property, real or personal, which
4 constitutes or is derived from proceeds traceable. And
5 there's an agreement as to the forfeiture aspect as well.
6 Mr. -- one second here. Mr. Delaney, if you'll come forward
7 here and initial this for Mr. Barron, the U.S. Attorney, and
8 then I want Mr. Ulysse to initial it. And I want Mr. Ulysse
9 to initial it as well.

10 MR. DELANEY: Thank you, Your Honor.

11 THE COURT: The record will reflect that Mr. Bardos
12 has initialed, and he has not yet been appointed in this case,
13 but I'm about to do so.

14 All right. Thank you Mr. Delaney.

15 MR. DELANEY: Thank you, Your Honor.

16 THE COURT: Do you understand the nature of these
17 charges, Mr. Ulysse?

18 THE DEFENDANT: Yes, sir, I do.

19 THE COURT: Do you understand that I've also got a
20 waiver of indictment form here in which you have waived your
21 right to have these charges be by prosecution of grand jury
22 indictment and consent that this case can proceed against you
23 by information; is that correct?

24 THE DEFENDANT: Yes, sir, it is.

25 THE COURT: Now, Mr. Bardos is here, he's been court

1 appointed to represent you in the underlying indictment, which
2 is case number 21-0054. And I'm going to appoint Mr. Bardos
3 here from our Criminal Justice Act panel to represent you on
4 this matter as well.

5 And, Ms. Tyson, if you'll proceed with all the
6 paperwork on that, whatever's necessary.

7 I find it's a knowing waiver here. Are you under
8 the influence of any drugs or alcoholic beverage or any
9 medication of any kind, Mr. Ulysse?

10 THE DEFENDANT: No, sir.

11 THE COURT: Anything further on this point from the
12 point of view of the government, Mr. Delaney?

13 MR. DELANEY: No, Your Honor. I would just ask the
14 question if Your Honor knows, are we required to conduct an
15 arraignment in this situation with the information --

16 THE COURT: I don't think so because this is an
17 arraignment, and he's apparently going to plead guilty on a
18 re-arraignment to the indictment and arraignment to the
19 information.

20 MR. DELANEY: Thank you so much, Your Honor.

21 THE COURT: Thank you so much, Mr. Delaney.

22 So with that, Ms. Tyson, if you'll take the waiver
23 of indictment form and that will be filed.

24 THE CLERK: Thank you.

25 THE COURT: I'll keep the indictment up here. The

1 criminal information up here.

2 Now, I would note that with respect to the original
3 charge, that you -- paragraph 11 of the plea agreement letter
4 of some two months ago reflected you reached an agreement with
5 the government as to the appropriate sentence here. And I
6 gather counsel, this is the total sentence as to both cases;
7 is that right, Mr. Delaney.

8 MR. DELANEY: That is correct.

9 THE COURT: Correct, Mr. Bardos.

10 MR. BARDOS: Yes, sir.

11 THE COURT: All right. And paragraph 11 of the plea
12 agreement letter, which will be introduced as Government
13 Exhibit 1 if this guilty plea concludes, and if I accept your
14 plea of guilty, and if you do not go to trial, because the
15 trial will not be postponed. This trial is scheduled for end
16 of October. And if I don't accept a guilty plea here today,
17 you will go to trial at the end of October, sir.

18 So paragraph 11 specifically references that you've
19 reached an agreement with the government as to the appropriate
20 sentence in this case, which is 48 months incarceration, which
21 is four years incarceration. That's under Rule 11(c)(1)(C) of
22 the Federal Rules of Criminal Procedure. That means, Mr.
23 Ulysse, if I were inclined to sentence you to one day more
24 than a total of 48 months on these two charges, you could
25 withdraw your plea of guilty, do you understand that?

1 Yes, Mr. Delaney?

2 MR. DELANEY: Your Honor, I'm sorry, a correction.
3 The (C) plea calls for a range beginning at 48 months and
4 going all the way to the low end of the guidelines, which will
5 be significantly higher.

6 THE COURT: I'm sorry, I didn't see that, maybe
7 because we don't have any agreement as to what the low end of
8 the resulting guideline range is.

9 MR. DELANEY: Correct, Your Honor. The anticipated
10 offense level is either 27, 28 or 29 when both charges are
11 considered. And Mr. Ulysse could have a criminal history that
12 is, and we'll figure out what probation says, it could be as
13 high as criminal history V, which means we could have a
14 substantially higher sentence than 48 months.

15 THE COURT: Really the thrust of this is it's only a
16 (C) plea as to the minimum.

17 MR. DELANEY: Well, and the government is bound not
18 to request higher than the low end of the guidelines range as
19 the Court finds it.

20 THE COURT: All right. So this is really not in my
21 opinion really within the total parameters of a Rule
22 11(c)(1)(C) plea. It's referenced in paragraph 11, but I've
23 not seen this before. So there are all kind of issues in
24 terms of what the top end might be. So there's no definition
25 to it. So as far as I'm concerned Mr. Delaney, all this means

1 is that the agreement is he can't be sentenced to less than 48
2 months. And I can't conjecture what the top end is going to
3 be, because there's no definite calculation to what the total
4 offense level is, there's no definite calculation what the
5 criminal history is, and there's no top level of any kind at
6 all. So this (C) plea should be appropriately referenced -- I
7 see the wording here, but the wording basically means this in
8 simple English: In simple English it means there's an
9 agreement that your sentence will not be below 48 months, do
10 you understand that.

11 THE DEFENDANT: Yes, sir, I do.

12 THE COURT: That means the government may argue for
13 a sentence well above 48 months and Mr. Bardos can argue for
14 any sentence down to 48 months. Is that a fair summary, Mr.
15 Bardos?

16 MR. BARDOS: Yes, sir. I understand the Court's
17 concern. There is no final answer, but there is a calculation
18 in the plea agreement for how we get to the final answer. So
19 the Court will determine whether it's 27, 28 or 29, probation
20 will determine what his Criminal History Category is. That --

21 THE COURT: Well, no, no, the Court will
22 determine --

23 MR. BARDOS: I'm sorry.

24 THE COURT: -- what the criminal history.

25 MR. BARDOS: Yes, initially probation will, Your

1 Honor's going to decide. And that will give us a guideline
2 range. The agreement is that the government will recommend
3 the low end of whatever that guideline range is. Now, the
4 Court, obviously, is not bound by either the guidelines or the
5 government's recommendation. So there -- I understand that.
6 And that would be true in any (c)(1)(C) range. But here, from
7 our point of view, there is some calculation that can give us
8 some idea of what the government's going to recommend.

9 THE COURT: I understand.

10 MR. BARDOS: That's really --

11 THE COURT: As it relates to Mr. Ulysse, it's very
12 simple, Mr. Bardos, so he can understand it. So if I don't
13 think he understands it I'm not going to accept the guilty
14 plea. And then we're going to -- and I'm going to make sure
15 he stays right where he is and we're going to have a trial and
16 we're going to go right through it. In terms of simple
17 English, not legalese, the (C) plea only means that he
18 understands under no circumstances would this sentence be less
19 than four years.

20 MR. BARDOS: That's correct.

21 THE COURT: As to all these other factors and total
22 offense levels and what the Court -- what the probation office
23 does and what the Court determines and criminal history. And
24 Mr. Delaney has said the Criminal History Category may go up as
25 high as V. I don't know. There is simply no way to calculate

1 what the top end would be. So in terms of simple language,
2 under Rule 11(c)(1)(C), Rule 11(c)(1)(C) only has
3 applicability to the extent that with this guilty plea if I
4 accept it, under no circumstances can I sentence you to less
5 than 48 months. And if I were inclined to do so, the
6 government could withdraw from the plea agreement.

7 Do you understand that, Mr. Ulysse?

8 THE DEFENDANT: Yes, I do, sir.

9 THE COURT: All right. I don't think I can make it
10 any more clear than that. That's all the agreement is. I
11 have no idea -- If I have no idea what the government's
12 position is going to be, neither do you. And the government
13 may argue for the top end of the guidelines, and the
14 government may argue for a different Criminal History
15 Category, and that's determined by me, not by the probation
16 office, on the rulings I make. And I have no idea what the
17 government's going to do in terms of how high they're going to
18 go or recommend, or what the top margin would be. But I can
19 explain to you that under no circumstances would the sentence
20 be less than 48 months.

21 Do you understand that?

22 THE DEFENDANT: Yes, I do, sir.

23 THE COURT: And Mr. Delaney, I probably need to make
24 sure in light of the nature of the original -- the original
25 fraud in the indictment related to notifying elderly victims

1 that members of their family were -- had been arrested and
2 they needed bail money, and have all those victims been
3 notified of these proceedings here as to Mr. Ulysse as well as
4 the trial date coming up as to the other two defendants?

5 MR. DELANEY: We have been in touch with victims,
6 victims have been notified. It is my understanding that
7 through the notification system they've been notified of all
8 relevant events that I can --

9 THE COURT: Ms. Forcina or others have been in
10 charge of notifying the victims; is that right?

11 MR. DELANEY: That's correct.

12 THE COURT: That's fine. And with respect to the
13 victim here as to the victims as to the unemployment insurance
14 fraud, obviously, there's been notice to the Maryland State
15 Department of Labor, but has there also been notice to any
16 victims whose identities were used and specifically the
17 individual A.C., with the initials A.C.

18 MR. DELANEY: I believe that the victims of the
19 unemployment insurance have also been added to our system and
20 I will confirm.

21 THE COURT: All right. That's fine. And that's
22 under the Crime Victims Rights Act, and so those persons have
23 been notified; is that right?

24 MR. DELANEY: Yes, Your Honor.

25 THE COURT: All right. So the proffer here is that

1 you're going to be pleading guilty to Count 1 of the
2 indictment, you're one of three defendants charged in a
3 seven-count indictment in 21-0054, and you're proffering a
4 plea of guilty, I understand, in a few moments, to Count 1,
5 conspiracy to commit mail fraud. And then you're proffering a
6 plea of guilty to the criminal information charging you with
7 mail fraud. The conspiracy to commit mail fraud is in
8 violation of 18, United States Code, Section 1349. And the
9 criminal information charging you with wire fraud is 18,
10 U.S.C., Section 1343, do you understand that, sir.

11 THE DEFENDANT: Yes I do, sir.

12 THE COURT: And I also note that in this plea
13 agreement in Paragraph 7d, the plea agreement dated July 22nd,
14 that there is an open guideline issue as to your role in the
15 offense, which again is a matter of the guideline calculation,
16 which is important in terms of where the guidelines would come
17 out on this. And I'm going to explain the guidelines to you
18 in a minute, but there is an open guideline calculation. And
19 that is the reason Mr. Delaney for the possibility that being
20 either total offense level of 26, 27, or 28; correct?

21 MR. DELANEY: That is exactly --

22 THE COURT: Are there any other guideline issues
23 that figure into that calculation?

24 MR. DELANEY: Um --

25 THE COURT: Is that guideline -- that variance

1 between 26, 27, and 28 is dependant upon -- I gather dependant
2 upon a determination of this defendant's role in the offense
3 under Section 3B1.1(c) of the advisory guidelines; is that
4 right?

5 MR. DELANEY: Yes, Your Honor.

6 MR. BARDOS: Judge?

7 THE COURT: Yes.

8 MR. BARDOS: I think the anticipated potential
9 offense level -- final offense level is 27, 28 or 29, not 26,
10 27 and 28.

11 MR. DELANEY: Your Honor was referring to the
12 counts --

13 MR. BARDOS: Oh, I'm sorry, are you doing the first
14 one?

15 THE COURT: I'm sorry, I'm talking about what was in
16 the plea agreement here with respect under to the Paragraph 7d
17 of the plea agreement letter.

18 MR. BARDOS: I'm sorry, yes.

19 THE COURT: And it's either two, three, or four
20 levels. And it's my understanding that that's the basis of
21 some -- let's say it's indefinite as to what the total offense
22 level would be; correct?

23 MR. BARDOS: Yes, Your Honor.

24 THE COURT: And I have a copy of the plea agreement
25 letter, but then I've been given another copy, have there been

1 changes since the July 22nd to the letter, Mr. Delaney?

2 MR. DELANEY: No, Your Honor. I do not believe
3 there have.

4 THE COURT: All right. And Ms. Tyson has the
5 original of that letter down at the clerk's desk, correct,
6 Ms. Tyson?

7 THE CLERK: Yes, that's correct.

8 THE COURT: So with that I think that we've gone
9 over the procedural posture here, the notice to the victims
10 the waiver of indictment as to criminal information. And I
11 think we're now ready to place you under oath.

12 And as I indicated to you, Mr. Ulysse, this is very
13 important when you take this oath. We have a lot of moving
14 parts in this case. As of 25 minutes ago we still had moving
15 parts in this case. And I was very concerned about you even
16 appearing here today. And we're going to go over your
17 conditions of release, so this is very important, because
18 you're been placed under oath under penalties of perjury. Do
19 you understand?

20 THE DEFENDANT: Yes, I do, sir.

21 THE COURT: And if it was determined that you lied
22 before me, totally apart from the charges here, the government
23 could prosecute you for perjury or making false statements, do
24 you understand that?

25 THE DEFENDANT: Yes, I do, sir.

1 THE COURT: All right. So with that, Ms. Tyson, you
2 may administer the oath to the defendant.

3 THE CLERK: Please raise your right hand.
4 (Defendant sworn.)

5 THE DEFENDANT: Yes, I do.

6 THE CLERK: Thank you. You may lower your hand.
7 Please state your full name for the record.

8 THE DEFENDANT: Medard Ulysse.

9 THE CLERK: Mr. Ulysse, what is your age?

10 THE DEFENDANT: 38.

11 THE CLERK: What year were you born, just the year?

12 THE DEFENDANT: 1984.

13 THE CLERK: Mr. Ulysse, you've been charged with
14 Count 1 of the indictment in case 21-54-RDB, how do you wish
15 to plead to that count?

16 THE DEFENDANT: I plead guilty.

17 THE CLERK: And in case RDB-22-0335, you've been
18 charged with an information, how do you wish to plead to that
19 count?

20 THE DEFENDANT: I plead guilty.

21 THE CLERK: Thank you.

22 THE COURT: Thank you, Ms. Tyson.

23 THE CLERK: You're welcome.

24 THE COURT: So the plea is guilty to Count 1 of the
25 indictment and the one-count criminal information. And

1 consistent with that, what is set forth in the plea agreement,
2 the government will be dismissing counts 2 through 7 when he
3 returns here for sentencing.

4 Correct, Mr. Delaney?

5 MR. DELANEY: Yes, Your Honor. Thank you.

6 THE COURT: You understand that, Mr. Ulysse, the
7 other counts will be dismissed against you, do you understand
8 that?

9 THE DEFENDANT: Yes I do, sir.

10 THE COURT: Sir, do you understand that you're now
11 under oath?

12 THE DEFENDANT: Yes, I do.

13 THE COURT: And do you understand that if you would
14 answer any of my questions falsely, as I've already mentioned
15 several times, you could be prosecuted in another prosecution
16 for perjury or for making false statements?

17 THE DEFENDANT: Yes, I do.

18 THE COURT: So it's very important you answer my
19 questions truthfully. If you don't understand a question,
20 we'll stop and you talk to your lawyer, Mr. Bardos, who's very
21 well known to the Court and a prominent member of the bar of
22 this Court and he's been appointed to represent you here.

23 How far did you get in school, sir?

24 THE DEFENDANT: Second year of college.

25 THE COURT: You obviously then can read and write

1 the English language?

2 THE DEFENDANT: Yes, sir, I can.

3 THE COURT: Have you been treated recently for any
4 mental illness or addiction to narcotic drugs of any kind?

5 THE DEFENDANT: No, I haven't.

6 THE COURT: Are you currently under the influence of
7 any drugs or medication or alcoholic beverage of any kind?

8 THE DEFENDANT: No, I'm not.

9 THE COURT: And is there medication that you
10 normally take which you did not take today?

11 THE DEFENDANT: No.

12 THE COURT: Mr. Bardos, are you satisfied that your
13 client is competent to proceed with the guilty plea here as to
14 the Count 1 of the indictment as well as the criminal
15 information?

16 MR. BARDOS: Yes, sir.

17 THE COURT: Have you received a copy of the
18 indictment as well as the criminal information, that is the
19 written charges made against you, Mr. Ulysse?

20 THE DEFENDANT: Yes, I have, sir.

21 THE COURT: And have you fully discussed these
22 charges with your attorney, Mr. Bardos?

23 THE DEFENDANT: Yes, I have.

24 THE COURT: Have you discussed the whole situation
25 with him, including the evidence in the respective cases,

1 witnesses, and the possibility of a trial and even an appeal
2 if you were found guilty by a jury on either the criminal
3 information or Count 1 of the indictment?

4 THE DEFENDANT: Yes, I have.

5 THE COURT: Are you fully satisfied with Mr. Bardos
6 and his representation and the advice which he's given you?

7 THE DEFENDANT: Yes, I am.

8 THE COURT: I need to inquire as to that because
9 there was some indication that you wanted to retain your own
10 lawyer, not really sure -- I didn't understand how you were
11 saying you couldn't appear here because you couldn't afford to
12 come yet, and yet you were going to retain your own lawyer.
13 Was any thought of retaining your own lawyer as a result of
14 any dissatisfaction that you had with Mr. Bardos?

15 THE DEFENDANT: I was satisfied with Mr. Bardos. It
16 was really the day before I was supposed to take the guilty
17 plea I was on the phone with like my mother, members of my
18 family, and they were just, you know, they were just saying
19 no, what do you mean -- like we have to get you a lawyer,
20 we'll just get you a new lawyer. I'm like I needed a lawyer
21 last year. They're like, well, we have to sell some property.
22 We have some stuff in Haiti. So that was it. It wasn't like
23 I have the money to get a new lawyer right now, I was
24 basically trying to see if I could get more time to retain a
25 lawyer. But at the same time, I'm a hundred percent satisfied

1 with Mr. Bardos, everything he's told me.

2 THE COURT: Well, take your hands out of your
3 pockets, if you would, please?

4 THE DEFENDANT: I'm sorry.

5 THE COURT: The indictment was returned in this case
6 on March 4th of 2021, a year and a half ago. And you appeared
7 here in the Court, your initial appearance was before
8 Magistrate Judge Copperthite on March the 26th of 2021. And
9 there was a temporary detention of you. And then there was a
10 notice of Mr. Bardos coming in as court-appointed counsel on
11 March the 30th. And there was a detention hearing held before
12 then magistrate Judge Boardman, who's now a district judge, on
13 March the 31st of 20 21. And you -- was he held in custody
14 for a period of time, Mr. Bardos? I can't tell from the
15 docket sheet.

16 MR. BARDOS: Yes, he was, Your Honor, until
17 September 10th, I believe, of 2021.

18 THE COURT: All right. So he was held in custody
19 from -- because you get credit for time served in federal
20 custody ultimately on the sentence that will be imposed. You
21 basically appeared here on March the 26th, 2021. And he was
22 in custody until when, in federal custody until when, Mr.
23 Bardos?

24 MR. BARDOS: I believe it was September 10th,
25 2021.

1 THE COURT: September 20, '21.

2 MR. BARDOS: He turned himself in March, he was held
3 until September. And then after litigated motion for
4 reconsideration he was released.

5 THE COURT: So he was released on September 20?

6 MR. BARDOS: September 10th, I believe, 2021.

7 THE COURT: September 10th. Take a look here.

8 There was a motion for reconsideration of his detention at a
9 virtual hearing that was conducted before Magistrate Judge
10 Coulson. And then conditions of release were set on September
11 10th, he's been on release ever since; is that right?

12 MR. BARDOS: That's correct.

13 THE COURT: So he's been on release since September
14 10th from Magistrate Judge Coulson, because that's going to be
15 important because I'm going to go over what these conditions
16 of release are. Because it's a lightly different position now
17 that he's pleading guilty on this.

18 MR. BARDOS: He's also --

19 THE COURT: Is there anything you've asked Mr.
20 Bardos to do which he's not done Mr. Ulysse?

21 THE DEFENDANT: No, Mr. Bardos has been --

22 THE COURT: I beg your pardon?

23 THE DEFENDANT: No, no Your Honor.

24 THE COURT: Are you fully satisfied with his
25 services?

1 THE DEFENDANT: Yes, I am, sir.

2 THE COURT: The Court has been advised there's a
3 plea agreement in this case, which I've referenced, which has
4 been set forth in a letter July 22 of this year, from
5 Assistant U.S. Attorney Sean Delaney to your attorney, Richard
6 Bardos. The original of that letter is at the clerk's desk,
7 Ms. Tyson's desk.

8 Mr. Bardos, if you'll retrieve that from Ms. Tyson,
9 so I can go over it with Mr. Mr. Ulysse.

10 Looking there at a copy of the original, rather, of
11 that plea agreement letter and any supplements or attachments
12 thereto, Mr. Ulysse, is that your signature there on page 11?

13 THE DEFENDANT: Yes, it is, sir.

14 THE COURT: And with respect to any attachments
15 thereto, or supplements thereto, is that your signature there?

16 THE DEFENDANT: Yes, it is, sir.

17 THE COURT: On page 16?

18 THE DEFENDANT: Yes, it is sir.

19 THE COURT: And did you have occasion to review and
20 discuss this plea agreement with Mr. Bardos before you signed
21 it in those two places?

22 THE DEFENDANT: Yes, I have.

23 THE COURT: And this is the same agreement which
24 you've signed; is that correct?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Has anyone made any other promises or
2 assurances to you in an effort to induce you to plead guilty
3 in this case, other than what is set forth in the plea
4 agreement letter?

5 THE DEFENDANT: No, sir.

6 THE COURT: And Mr. Bardos, are you satisfied that
7 this plea agreement letter with any attachments sets forth the
8 complete agreement that your client has with the government.

9 MR. BARDOS: Yes, sir.

10 THE COURT: And Mr. Ulysse, are you satisfied that
11 this plea agreement letter with any attachments thereto sets
12 forth the complete agreement you have with the government?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: With respect to both of these charges?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Mr. Bardos, if you'll return
17 that plea agreement letter to Ms. Tyson. And that will be
18 introduced as Government Exhibit No. 1 for purposes of these
19 proceedings. And I gather that will be placed under seal; is
20 that correct, Mr. Delaney?

21 MR. DELANEY: Yes, Your Honor.

22 THE COURT: Correct, Mr. Bardos, under seal.

23 MR. BARDOS: The --

24 THE COURT: You want this plea agreement to be under
25 seal?

1 MR. DELANEY: Actually, Your Honor, it does not need
2 to be placed under seal. Thank you.

3 THE COURT: All right. That's fine. You want it
4 under seal, Mr. Bardos?

5 MR. BARDOS: The sealed supplement, yes. The main
6 document, no.

7 THE COURT: All right. Okay. Then one portion will
8 be placed under seal one will not be placed under seal.

9 Now do you understand looking at that plea agreement
10 letter, Mr. Ulysse, and I think Mr. Bardos has a copy of it.
11 In paragraph 23 of that plea agreement letter, it provides
12 that the Court is not a party to the agreement. I'll
13 certainly abide by the fact that the sentence cannot go below
14 48 months. But I'm not a party to it in any way other than
15 that -- as I've indicated to you, the government assured
16 itself that the sentence can not be below 48 months. I have
17 no knowledge at this time how high the sentence could
18 potentially go, but under no circumstances could it go below
19 48 months. And I'll accept your guilty plea under those
20 terms, but I'm in the a party to the agreement, do you
21 understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: I haven't signed this anywhere, you
24 understand?

25 THE DEFENDANT: I understand, sir.

1 THE COURT: And I'm indicating for the record that I
2 have -- there's no commitment under this agreement as to what
3 the top end would be and where I'm going to sentence you,
4 other than the fact that there's a agreement that you will not
5 be sentenced to less than four years.

6 Has anybody tried to force you or threaten you to
7 plead guilty in this case?

8 THE DEFENDANT: No, sir.

9 THE COURT: Are you pleading guilty on your own
10 freely because you're in fact guilty of the offenses as
11 charged?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: First of all, as to conspiracy to commit
14 mail fraud.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: The elements of that are that on or
17 about the dates set forth in the indictment, which states from
18 on or about January 2018 through in or about November of 2019,
19 these are the elements set forth in paragraph 2 of the plea
20 agreement letter, that you and at least one other person
21 entered into an unlawful agreement, and that the purposes of
22 that agreement was to knowingly execute or attempt to execute
23 a scheme and artifice to defraud, or to obtain money by means
24 of materially false and fraudulent pretenses, representations,
25 and promises, and the use or cause the use of the mails as

1 charged in the indictment, and that you knowingly and
2 willfully became a member of that conspiracy, do you
3 understand the elements of that offense?

4 THE DEFENDANT: Yes, I do, sir.

5 THE COURT: And furthermore, the elements as to wire
6 fraud charged in the criminal information are that there was a
7 scheme and artifice to defraud and obtain money by means of
8 materially false pretenses, and that on or about the date
9 charged in the criminal information that I have read to you,
10 specifically -- specifically from July 2020 through November
11 2020, that you committed wire fraud, and that the elements of
12 that offense are that not only was there a scheme and artifice
13 to defraud, but that you knowingly and willfully participated
14 in the scheme and caused the use of interstate wires to
15 enforce that scheme. Do you understand the basic elements of
16 this the offense to which you're pleading guilty?

17 THE DEFENDANT: Yes, I do, sir.

18 THE COURT: And they are both felony offenses, do
19 you understand that?

20 THE DEFENDANT: Yes, I do, sir.

21 THE COURT: And you're adjudicated guilty of those
22 offenses here today you'll lose certain valuable civil rights.
23 You lose the right to have a firearm. You lose the right to
24 vote. You lose the right to have ammunition, do you
25 understand that?

1 THE DEFENDANT: Yes, I do, sir.

2 THE COURT: Is your client an American citizen, Mr.
3 Bardos?

4 MR. BARDOS: Yes, sir.

5 THE COURT: So you are -- he's a naturalized
6 American citizen?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: He's a regular American citizen, but you
9 might lose other rights as a American citizen to keep certain
10 licenses or permits or jobs or be able to keep public benefits
11 such as public housing loans, Section 8 loans, for example.
12 You lose the right to all of those federal benefits because of
13 your felony convictions here if I accept these pleas of
14 guilty. Do you understand that?

15 THE DEFENDANT: Yes, I do, sir.

16 THE COURT: And if you've been convicted of another
17 crime in the past, and you were on parole or probation for any
18 of those other offenses, you could face the possibility of
19 violation of parole or probation, because of your conviction
20 here, do you understand that?

21 THE DEFENDANT: Yes, I do.

22 THE COURT: And furthermore, if you were convicted
23 of another crime in the future, and you were before another
24 judge in another courtroom, as a result of your conviction
25 here on these charges you might face a harsher sentence

1 because of your conviction here, do you understand that,
2 Mr. Ulysse?

3 THE DEFENDANT: Yes, I do, sir.

4 THE COURT: And you also face the matter of
5 restitution and forfeiture of certain property as to the
6 forfeiture of certain property that's set forth in paragraphs
7 14 through 18, and also at paragraph 19 of the plea agreement
8 notes that you stipulate as to the abandonment of certain
9 property as listed in paragraph 19. Do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And those items include computer
12 equipment; is that right, Mr. Delaney?

13 MR. DELANEY: Yes, Your Honor.

14 THE COURT: All right.

15 MR. DELANEY: As well as a firearm and ammunition.

16 THE COURT: Yes. Yes. As was noted in paragraph 3
17 of the plea agreement letter you understand that the maximum
18 sentences for these offenses are as to Count 1 the conspiracy
19 charged in the indictment, a maximum penalty of 20 years
20 imprisonment and three years of supervised release and a fine
21 of \$250,000, or twice the gross loss as a result of the fraud.
22 And as to Count 2, the criminal information charging you with
23 the wire fraud, it is also the same maximum penalties of 20
24 years imprisonment, three years of supervised release, and a
25 fine of \$250,000. Do you understand that, sir?

1 THE DEFENDANT: Yes, I do, sir.

2 THE COURT: And there's a special assessment of each
3 count in the amount of \$100 that's automatically required by
4 statute. Do you understand that?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: That will just be deducted from your
7 prison wages.

8 I would also note on the matter of restitution, this
9 Court may enter an order of restitution. And Paragraph 13 of
10 the plea agreement letter specifically notes that the
11 restitution that for which you may be jointly and severally
12 responsible with any others could go up to as high as \$2.7
13 million as to the conspiracy charge or \$2,703,520 to be exact.
14 And as to the wire fraud charge the restitution could go up to
15 \$618,767. Do you understand that, sir?

16 THE DEFENDANT: Yes, I do, sir.

17 THE COURT: All right. And you'll be ordered to pay
18 so much per month. You, obviously, during a period of
19 supervised release will not be able to pay all of that and it
20 will become an issue with the Financial Litigation Unit of the
21 U.S. Attorney's Office with respect to payments of
22 restitution, do you understand that?

23 THE DEFENDANT: Yes, I do, sir.

24 THE COURT: And any payment of restitution would be
25 joint and several with respect to anyone else guilty of these

1 offenses as well, meaning that they may or may not share in
2 the payment of it if they were to be convicted do you
3 understand that?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: Have I correctly summarized the
6 restitution posture from the point of view of the government,
7 Mr. Delaney?

8 MR. DELANEY: Yes, Your Honor. Thank you.

9 THE COURT: Mr. Bardos, from your point of view?

10 MR. BARDOS: Yes, sir.

11 THE COURT: Do you understand, I mentioned
12 supervised release, Mr. Ulysse, supervised release involves
13 your compliance with certain conditions set by the Court, and
14 monitored by the probation office. Do you understand that if
15 you were to violate conditions of supervised release after a
16 prison sentence, you could be sent back to prison without any
17 credit for the time already served?

18 THE DEFENDANT: Yes, I do, sir.

19 THE COURT: It would be a totally separate matter,
20 do you understand that?

21 THE DEFENDANT: Yes, I do.

22 THE COURT: Are you satisfied then, Mr. Bardos, that
23 Mr. Ulysse understands all the possible consequences of his
24 guilty pleas here today.

25 MR. BARDOS: Yes, Your Honor.

1 THE COURT: And are you satisfied, Mr. Ulysse, that
2 you understand all the possibility consequences of your plea
3 of guilty here today?

4 THE DEFENDANT: Yes, I do, sir.

5 THE COURT: Let me just go over the process here in
6 federal court with respect to sentencing. And in the case of
7 a partial (C) plea here, that's how I view this, it's also
8 important for me to make sure you understand that the basis of
9 my agreeing that the sentence would not be below 48 months
10 also relates to an analysis that I would conduct under the
11 guidance of two Supreme Court opinions in the last 17 and a
12 half years. The Federal Sentencing Guidelines are referenced
13 in paragraph 5, I think -- I'm sorry paragraph 6 of your plea
14 agreement letter.

15 And as to those guidelines, the United States
16 Supreme Court issued an opinion in January of 2005, in a case
17 of *United States v. Booker*, in which the Supreme Court of the
18 United States upheld the constitutionality of those
19 guidelines, but did so with the deletion of two particular
20 sections of the guidelines, which had previously rendered the
21 guidelines mandatory. The Supreme Court noted with the
22 deletion of those mandatory provisions, those guidelines were
23 constitutional, but from that point forward in January of
24 2005, the Federal Sentencing Guidelines were rendered
25 effectively advisory and were to be applied in an advisory

1 context. Meaning that federal judges, while not bound to
2 apply the guidelines, must still consider them when taking --
3 take them into account when imposing a sentence, subject to
4 review by courts of appeals for unreasonableness. Here there
5 is essentially a waiver of any sentence, as long as it's not
6 below 48 months here by the parties.

7 The other factors are to be considered by me under
8 Section 3553 of Title 18, which is referenced there in
9 paragraph 6 of your plea agreement letter. Those other
10 factors include your personal history and characteristics, the
11 nature and circumstances of the offense, sentences imposed
12 upon similarly situated individuals for these types of
13 fraudulent crimes. All those factors would be taken into
14 account by me when I impose a sentence when you return here
15 for sentencing. Do you understand that?

16 THE DEFENDANT: Yes, I do, sir.

17 THE COURT: I said there were two key opinions, and
18 the second of those two opinions, the case of *Gall versus the*
19 *United States* decided in December of 2007, about three years
20 after the *Booker* case, the Supreme Court specifically noted
21 that federal judges should not presume that the guideline
22 range is reasonable, but it is a starting point in a multistep
23 process, pursuant to which first there's a calculation of a
24 guideline range and then there's a consideration of other
25 factors apart from the guidelines. The goal being to impose a

1 sentence which is sufficient but not greater than necessary to
2 achieve the goals of sentencing.

3 So that would be the process here. There will be a
4 calculation of the guideline range. And there's some
5 guideline issues that I have to address, which is why we spent
6 time on that before we started today. Because even once the
7 guideline calculation is determined, I'm not bound by it. And
8 I'll consider other factors as well. Do you understand that?

9 THE DEFENDANT: Yes, I do.

10 THE COURT: And paragraph 7 of the plea agreement
11 notes certain stipulations, there's certain matters that
12 remain under dispute. But essentially with the calculations
13 here, as noted by paragraphs -- by paragraph 7 of the plea
14 agreement letter, it's anticipated that the resulting level
15 for the conspiracy charge would be either a total offense
16 level of 26, 27, or 28. And for the wire fraud charge a
17 matter of 20. And it remains to be seen, ultimately, in terms
18 of how I calculate that out. That's what's anticipated, do
19 you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And you have stipulated in paragraph 11
22 that the sentence here will not be less than 48 months and it
23 may go higher, obviously, in terms of the guideline
24 calculation, that remains to be seen what it will be. Do you
25 understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And paragraph 9 notes there is no
3 agreement as to your criminal history and that's another
4 factor I'll be determining after reviewing the presentence
5 report from the probation office. And that will be important
6 as well.

7 And pursuant to paragraph 10 of the plea agreement,
8 with respect to the guidelines there are no other guideline
9 issues in dispute apparently; is that correct, Mr. Delaney?

10 MR. DELANEY: Yes, Your Honor. Thank you.

11 THE COURT: Correct, Mr. Bardos?

12 MR. BARDOS: Yes, sir.

13 THE COURT: All right. As I've said, at the time of
14 sentencing, in paragraph 11 the government will recommend a
15 sentence somewhere above 48 months, do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Now, do you understand that as a result
18 of your guilty plea here this afternoon that you're not
19 allowed to own or possess or use a firearm, do you understand
20 that?

21 THE DEFENDANT: Yes, I do.

22 THE COURT: That would be a separate violation if
23 you were found with a firearm, do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Now I'll not be able to determine the

1 advisory guideline range in this case, Mr. Ulysse, until a
2 presentence investigation report has been prepared by the U.S.
3 probation officer assigned to this case. And we believe it
4 will be Nicole Wonneman. She will prepare a presentence
5 report and she'll give a copy to Mr. Delaney and Ms. Cusson or
6 Ms. Goo. And they will review it, note any objections to it.
7 She'll give a copy to Mr. Bardos. He'll review it with you
8 and he either will or will not make any objections. And
9 ultimately that report will either be changed or not changed
10 and it will come to me. Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: So the sentence imposed could be
13 different from any exact estimate given by Mr. Bardos, because
14 he doesn't have any -- I have no idea what I'm going to do in
15 terms of it being above 48 months, where, because I have to
16 see the report first. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you also understand, Mr. Ulysse, that
19 parole has been abolished in the federal system? Let me
20 explain that to you. Let's say the sentence were -- it can't
21 be below 48 months, let's say if the sentence was 60 months,
22 five years. In the state system under normal process under
23 state of Maryland criminal laws you might be subject to a
24 potential sentence of just one-third of that, maybe 20 months,
25 maybe year and a half, less than two years, and then on parole

1 for the balance of it. That's not the way the federal system
2 works. Do you understand that?

3 THE DEFENDANT: Yes, I do.

4 THE COURT: Whatever the sentence is, that's the
5 sentence. You can get between 50 and 54 days a year of good
6 time credit. So in my example a five-year sentence, over the
7 course of the first four years you might get six months of
8 good time credit, which means maybe a five-year sentence would
9 translate out to four years and maybe two or three months. Do
10 you understand that?

11 THE DEFENDANT: Yes, I do, sir.

12 THE COURT: But there is no parole in the federal
13 system. You don't just serve one third of your time and be
14 put on parole afterwards?

15 THE DEFENDANT: Yes, I do, sir.

16 THE COURT: And with respect to rights of appeal,
17 paragraph 12, notes that you and the government waive appeal
18 of any lawful sentence as long as it's not less than 48
19 months. That's how I interpret this waiver of appeal. The
20 government does not waive appeal if the sentence is less than
21 48 months. Other than that, both sides waive appeal of a
22 lawful sentence, do you understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And Mr. Delaney, I gather from the point
25 of view of the government, as to these guideline issues that I

1 will address there's a waiver of appeal on the guideline
2 issues from the point of view of the government; correct?

3 MR. DELANEY: Yes, Your Honor.

4 THE COURT: Correct, Mr. Bardos?

5 MR. BARDOS: Yes, sir.

6 THE COURT: All right. And paragraph 12c
7 specifically notes, Mr. Ulysse, that there's a waiver of your
8 rights under the Freedom of Information Act. That is a law
9 that was passed by the U.S. Congress that gives rights to
10 American citizens to seek information from certain federal
11 government agencies. You've had access to discovery in this
12 case over the last year, more than a year from your attorney,
13 Mr. Bardos, but now that you're pleading guilty you have no
14 further right to seek -- to file a Freedom of Information Act
15 request seeking information from the Department of Justice,
16 from the Department of Labor, from the FBI, you have no right
17 to file any such request, do you understand that?

18 THE DEFENDANT: Yes I do.

19 THE COURT: And that's waived in paragraph 12c.
20 Also, want to make sure that you understand your waiver of
21 certain rights that are set forth in paragraph 5 of the plea
22 agreement letter, specifically, with respect to your waiver of
23 a jury trial here. For the trial in this case, which has been
24 set to start, I believe it's on October the 25th, if I'm not
25 mistaken. Hold on one second, here. I think it's around --

1 it's been postponed before, but because of a request of
2 another co-defendant, but it's around October 25th, maybe four
3 weeks from now, five weeks from now.

4 Do you understand that you have a right to plead not
5 guilty to any of these charges here that you're pleading
6 guilty to today, and you'd have a right to a trial by jury.
7 And that would be about four weeks from now. And you could
8 persist in those pleas of not guilty and you'd have a right to
9 a trial by jury on any and all charges for which 12 people
10 would be selected as jurors. Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And do you understand you have the right
13 to participate with Mr. Bardos in the selection of a jury in
14 this case?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And do you understand that at trial you
17 would be presumed to be innocent on both of these charges
18 and -- all of the charges, and the government would have to
19 prove your guilt beyond a reasonable doubt. Do you understand
20 that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you understand there would have to be
23 a unanimous verdict of all 12 jurors before you could be
24 convicted on any count?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: The jury would have to decide each count
2 separately, they could find you not guilty on some counts and
3 guilty on others. But in order to find you guilty there would
4 have to be a unanimous verdict. If there was one juror who
5 held out and didn't agree, there would be a hung jury on that
6 charge you'd have to have a retrial. Do you understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you understand you have the right
9 to the assistance of your counsel for your defense, and the
10 right to see and hear all witnesses and to cross-examine all
11 witnesses, Mr. Ulysse?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And do you understand on your own part
14 you have the right to decline to testify unless, you
15 voluntarily I elected to testify in your own defense?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Under the 5th Amendment to our
18 Constitution you have a privilege against self-incrimination.
19 The government could not call you as a witness. I could not
20 call you as a witness. Do you understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: But if you did go to trial and choose to
23 testify, you could then be subject to impeachment on
24 cross-examination and could be questioned about any prior
25 criminal record that you have, do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you also understand if should you
3 decide to go to trial, but not testify or put on any evidence,
4 those facts could not be used against you?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Specifically, I would tell the jury when
7 the jury began their deliberations, I would tell them that if
8 you had not testified or put on any evidence, I would tell
9 them that you did not testify or put on any evidence and I
10 would tell the jury specifically that they should not consider
11 that in any way or hold that against you. And I would
12 specifically tell the jury that the burden is always upon the
13 government to prove guilt beyond a reasonable doubt. That
14 burden never shifts to a criminal defendant. A criminal
15 defendant is never required to prove his innocence. The
16 burden is always upon the government to prove guilt beyond a
17 reasonable doubt, do you understand your rights in that
18 regard, sir?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And also you would have the right to the
21 issuance of subpoenas to compel the attendance of witnesses to
22 testify on your behalf. Do you understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You could give the names of any
25 witnesses whom you wanted to call to Mr. Bardos. And he would

1 give those names to the clerk of the Court. And because
2 you're indigent, represented by court-appointed counsel, at no
3 cost to you those subpoenas would be served. And just as the
4 government can compel people to come into the courtroom, so
5 can you. And those persons would be required to come into the
6 courtroom upon receiving subpoenas and testify on your behalf.
7 Do you understand that, sir?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And do you understand if there was a
10 trial in this case and if you were found guilty by a jury on
11 any charge, there would be no waiver of appeal as there is
12 now, you would be able to appeal any finding of guilty on
13 charges, you would be able to appeal the sentence in the case.
14 Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And do you further understand that by
17 entering this plea of guilty, if I accept that plea in a few
18 moments there will be no trial, and you will have waived or
19 given up your rights to a trial, as well as all the other
20 rights associated with a trial?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Now the elements of the offense to which
23 you're pleading guilty, I've already summarized for you, as to
24 the conspiracy to commit mail fraud charge, that at least you
25 and one other person entered into an unlawful agreement. And

1 that the purpose of the agreement was to execute and attempt a
2 scheme to defraud, by means of obtaining money by false
3 pretenses, and that you knowingly became a member of that
4 conspiracy, as to the Count 1 of the indictment.

5 And as to the one-count criminal information with
6 respect to the elements of wire fraud, the elements being that
7 there was a scheme and artifice to defraud by false pretenses,
8 that you knowingly, willfully participated in that scheme with
9 the knowledge of its fraud. And that the perpetration of that
10 fraud resulted in the use of interstate wires as noted in the
11 criminal information. Do you understand the basic elements of
12 the offense to which you're pleading guilty here today?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: With that you may be seated for a few
15 moments and I'll call upon Assistant United States Attorney
16 Sean Delaney to summarize or make a representation concerning
17 the facts the government would be prepared to prove at trial,
18 so as to establish independent factual basis for these pleas
19 of guilty, both to Count 1 of the indictment and as to the
20 one-count criminal information. And I would note that the
21 factual basis for this Court's acceptance of those guilty
22 pleas is also contained in Attachment A the stipulation of
23 facts, which addresses both the elder fraud scheme, as relates
24 to Count 1 of the indictment, as well as the unemployment
25 insurance benefit fraud scheme, which relates to the one-count

1 criminal information.

2 Mr. Delaney, I'll be delighted to hear from you.

3 MR. DELANEY: Thank you, Your Honor. The defendant
4 Medard Ulysse was a resident of Miami Florida and Covington,
5 Georgia. From at least in or about January 2018 through in or
6 about November 2019, in the district of Maryland and
7 elsewhere, Mr. Ulysse conspired with others known and unknown
8 to commit mail fraud. Specifically, Mr. Ulysse's
9 co-conspirators persuaded elderly victims to sends thousands
10 of dollars in cash through the United States Postal Service,
11 and by private and commercial interstate carriers to members
12 of the conspiracy under false pretenses. That A, the money
13 would be used to help victim's relatives pay legal or other
14 expenses in connections with crimes and other incidents that
15 had not occurred. And B, the money would be sent to
16 particular individuals at their addresses to the members of
17 the conspiracy who falsely claimed to reside at those
18 addresses. We refer to that collectively as a scheme to
19 defraud.

20 Mr. Ulysse's co-conspirators telephoned elderly
21 victims throughout the United States while posing as a police
22 officer, lawyer, or other individual, falsely told the victim
23 that a relative, typically the victim's grandchild, had been
24 incarcerated in connection with a car accident or traffic stop
25 involving a crime, and needed money for bail and legal fees,

1 often tens of thousands of dollars. Co-conspirators also
2 posed as the victim's relatives themselves in order to further
3 induce the victim's to send the cash. The co-conspirators
4 described the situation as extremely serious, sometimes
5 indicating that illegal drugs had been found in the vehicle,
6 or that the occupant of another car was injured.

7 In order to conceal the crime, the co-conspirators
8 told the victims false information like there had been a gag
9 order placed on the case requiring secrecy, or the situation
10 was embarrassing for the grandchild and the victim should not
11 share the information with others. During the telephone calls
12 the co-conspirators directed the victim to send cash to a
13 particular address via overnight delivery service, such as
14 United States Parcel -- Postal Service priority mail, FedEx,
15 and United Parcel Service.

16 If the victims sent cash as directed by the
17 co-conspirators, the co-conspirators would call the victims
18 again and ask for more cash, claiming that additional funds
19 were necessary for various purposes. Such as the grandchild's
20 legal expenses, bail, or fines, or to pay damages. The
21 co-conspirators obtained tens of thousands of dollars from the
22 victims.

23 In order to conceal the crime, co-conspirators
24 identified residential locations across the country where the
25 cash should be sent. Including, but not limited to, addresses

1 in Maryland, Delaware, Pennsylvania, and Florida. These
2 identified residential locations would either be vacant or for
3 sale, so no one would be at those addresses at the time of the
4 deliveries. The government contends that Mr. Ulysse directed
5 these activities.

6 Mr. Ulysse recruited people to assist in retrieving
7 the packages of cash when they were delivered to the specified
8 residential locations. Co-conspirators opened the packages,
9 counted the cash inside, and sent Mr. Ulysse video recordings
10 of packages being opened and counted. Co-conspirators
11 delivered the fraud proceeds to Mr. Ulysse and to other people
12 involved in the scheme. The government contends that
13 Mr. Ulysse directed these activities. The government contends
14 that Mr. Ulysse distributed and directed other co-conspirators
15 to distribute cash payments to other members of the conspiracy
16 for their participation in the scheme.

17 On or about January 8th, 2019, a member of the
18 conspiracy contacted J.N., then 79 years old from La Quinta,
19 California, by phone claiming he was a attorney for J.N.'s
20 granddaughter. The caller stated that J.N.'s granddaughter
21 had been arrested and J.N. needed to send bail money to an
22 address in Baltimore, Maryland. The caller told J.N. he could
23 not tell anyone because the judge had imposed a gag order.
24 J.N. sent a package containing \$9,400 cash via FedEx to the
25 Baltimore address as instructed.

1 Also on or about January 8th, 2019 a member of the
2 conspiracy contacted by -- contacted R.H., the 89 -- 89 years
3 old from Bainbridge Island, Washington, by phone and told him
4 that his grandson was in jail, and R.H. needed to send bail
5 money to an address in Baltimore Maryland. The caller told
6 R.H. that once his grandson appeared in court the bail money
7 would be returned. R.H. sent a package containing \$9,000 cash
8 via UPS to the Baltimore address as instructed.

9 On the morning of January 9th, 2019, the packages of
10 cash sent by J.N. and R.H. to Baltimore, Maryland, were
11 delivered by FedEx and UPS respectively. Mr. Ulysse utilized
12 his Lyft ride share account to provide transportation for
13 retrieval of the packages between the two addresses.

14 On January 18th, 2019, F.W., then 87 years old from
15 Groton, Connecticut, received a phone call from a person who
16 falsely claimed to be his grandson. While on the phone the
17 caller claiming to be his grandson passed the phone to another
18 individual who falsely claimed to be a narcotics police
19 officer. F.W. was told by the purported police officer to
20 send \$9,000 cash by FedEx to another address in Baltimore so
21 that his grandson could be released. F.W. sent a package
22 containing \$9,000 in cash via FedEx to that address.

23 On January 9th, 2019 the purported police officer
24 again called F.W. and falsely claimed that there was a fine
25 for the incident involving his grandson. F.W. was then

1 instructed by the purported police officer to send an
2 additional \$9,400 to the same address, which F.W. did.

3 On January 11th, 2019, the purported police officer
4 again called F.W. and falsely claimed that any incident
5 involving F.W.'s grandson, there was an additional charge for
6 obstruction of justice. F.W. was again instructed by the
7 purported police officer to send an additional \$9,800 to the
8 same address, which F.W. did.

9 On January 12th, 2019, the package of cash sent by
10 F.W. was delivered to Baltimore, Maryland, via UPS. Mr.
11 Ulysse utilized his Lyft ride share account to provide
12 transportation to the address for retrieval of the package.

13 In March 2019 a member of the conspiracy contacted
14 R.S., an 83-year-old woman from St. Charles, Illinois, by
15 phone, claiming to be R.S.'s grandson. And told R.S. that he
16 had been in an accident and was in jail. The caller stated
17 that R.S. needed to send money to an address in Lancaster,
18 Pennsylvania to pay for purported damages. R.S. sent a
19 package containing \$20,000 cash to the Lancaster address as
20 instructed.

21 On or about March 19th, 2019, Mr. Ulysse directed
22 another member of the conspiracy to retrieve the package sent
23 to Lancaster, Pennsylvania, by R.S. Mr. Ulysse directed the
24 co-conspirator to video himself opening the package of cash
25 and then send the video to Mr. Ulysse so that he could view

1 the amount of cash in the package.

2 As a result of the execution of the elder fraud
3 scheme, between January 2018 and August 2019, Mr. Ulysse and
4 others caused at least 83 different victims to be directed to
5 send a total of at least \$2,420,280. Of that amount,
6 \$1,834,545 was not returned to victims. Mr. Ulysse's conduct
7 resulted in substantial financial hardship to at least five of
8 the victims.

9 There is also an attachment, Attachment A to the
10 plea agreement. There is also a summary of the unemployment
11 benefits scheme, which Your Honor substantially read --

12 THE COURT: Yes, you've just summarized the facts
13 that give rise to the factual predicate for this Court's
14 acceptance of a guilty plea as to Count 1 of the indictment.
15 And now you're about to summarize the factual stipulation as
16 to the one-count criminal information; correct?

17 MR. DELANEY: That's correct, Your Honor. And I
18 will skip past the paragraphs summarizing the unemployment
19 benefit fraud scheme that has already been -- that has already
20 been summarized by the Court and move forward to, from at
21 least in or about April 2020, through at least in or about
22 November 2020, in the district of Maryland and elsewhere,
23 Mr. Ulysse conspired with others known and unknown, to devise
24 and execute a scheme to obtain unemployment benefits and other
25 property by fraudulent pretenses and representation.

1 In order to execute the fraud scheme, Mr. Ulysse and
2 his co-conspirators knowingly and willfully caused writings,
3 signals, pictures, and sounds to be transmitted by interstate
4 wire. Specifically, Mr. Ulysse and his co-conspirators
5 obtained and attempted to obtain money, merchandise, and other
6 property by submitting false applications in the names of
7 identity theft victims, claiming unemployment benefits to
8 which he and other members of the conspiracy were not
9 entitled.

10 He and his co-conspirators submitted these
11 fraudulent claims for unemployment benefits through the
12 internet to the Maryland Department of Labor and the
13 California Employment Development Department, as well as other
14 state workforce agencies. They contained individual victim's
15 names, Social Security numbers, and date of births. And those
16 workforce agencies disbursed benefits through debit cards
17 issued in the name of the applicants and mailed to the
18 addresses provided in the applications. By completing and
19 submitting these applications, Mr. Ulysse and his
20 co-conspirators caused the issuance of debit cards in their
21 names mailed to locations in Maryland and elsewhere.

22 As a result of the fraudulent applications the
23 Maryland Department of Labor and other state work force
24 agencies approved the disbursement of unemployment payments
25 that included federal funds. Mr. Ulysse and his

1 co-conspirators obtained these payments from locations in
2 Maryland and elsewhere, and debit cards were issued as a
3 result of these fraudulent claims and used to withdraw those
4 funds.

5 Specifically, between July 20th, 2020 and November
6 11th, 2020, Mr. Ulysse conducted fraudulent transactions
7 through the use of debit cards issued in the names of at least
8 six identity theft victims and funded with unemployment
9 compensation including the federal funds. Each debit card
10 displayed a victim's name. The unemployment benefits were
11 disbursed by Maryland Department of Labor and other state
12 workforce agencies as a result of the fraudulent claims.
13 Mr. Ulysse was aware that the real person's identifies were
14 used to file fraudulent unemployment claims and the debit
15 cards were issued in the names of real people.

16 On or about August 16th, 2020, Mr. Ulysse used a
17 debit card issued in the name of R.B. to withdraw \$440 from an
18 ATM in Baltimore, Maryland. The debit card was issued in
19 response to a fraudulent application for unemployment
20 compensation submitted in R.B.'s name.

21 On or about August 26th, 2020, Mr. Ulysse utilized a
22 debit card issued in the name of R.B. to withdraw \$500 from an
23 ATM in Hampstead, New York. This debit card was also issued
24 in response to a fraudulent application for unemployment
25 compensation submitted to the Maryland Department of Labor in

1 R.B.'s name.

2 On September 26th, 2020, Mr. Ulysse used a debit
3 card issued in the name of A.C. to withdraw \$980 from an ATM
4 in Baltimore, Maryland. This debit card was issued in
5 response to a fraudulent application submitted to the
6 California Employment Development Department in A.C.'s name.

7 On November 30th, 2020, Mr. Ulysse was the driver of
8 a vehicle that was stopped in Valdosta, Georgia, by Lowndes
9 County Sheriff's Department. The department conducted a
10 search of the vehicle and recovered debit cards in the name of
11 R.B., R.P., and A.C., along with over 25 other debit cards
12 issued in names other than Mr. Ulysse, as well as multiple
13 electronic devices.

14 As a result of the execution of the unemployment
15 insurance benefits scheme, between April 2020 and November
16 2020, Mr. Ulysse and others submitted at least 143 fraudulent
17 applications in the names of various identity theft victims
18 resulting in the funding of at least \$618,767 in fraudulent
19 unemployment benefits. Losses in this amount were reasonable
20 foreseeable to Mr. Ulysse.

21 THE COURT: Thank you very much, Mr. Delaney. And
22 the record will reflect you've essentially summarized and read
23 almost verbatim the Attachment A to the plea agreement letter
24 as to both of the charges here to which the defendant is
25 pleading guilty.

1 If you'll please stand, Mr. Ulysse. Thank you.

2 Mr. Bardos, are there any additions or modifications
3 to that statement of facts?

4 MR. BARDOS: No, sir.

5 THE COURT: Mr. Ulysse, is that an accurate summary
6 of the facts in this case, both with respect to the charges in
7 Count 1 and the conspiracy charge in the indictment with
8 respect to the -- one second here, with respect to the elder
9 fraud scam?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And are they also -- is that an accurate
12 summary as to the unemployment insurance benefit fraud scheme?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: I'm sorry?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Did you, in fact, commit the crime as
17 summarized by the government by Mr. Delaney?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You still wish to plead guilty, sir?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Specifically, then Mr. Ulysse, how do
22 you plead to Count 1 of the indictment, guilty or not guilty?

23 THE DEFENDANT: Guilty.

24 THE COURT: How do you plead to the one count
25 criminal information charging you with wire fraud?

1 THE DEFENDANT: Guilty.

2 THE COURT: I'm sorry charging you with -- wire
3 fraud, yes, guilty or not guilty?

4 THE DEFENDANT: Guilty, sir.

5 THE COURT: Mr. Bardos, is there any reason that you
6 know of why this Court should not accept these guilty
7 pleas?

8 MR. BARDOS: No, Judge.

9 THE COURT: It is the finding of this Court in the
10 case of United States versus Ulysse, criminal number
11 RDB-21-0054, and criminal number RDB-22-0335, that the
12 defendant is fully competent and capable of entering informed
13 pleas as to both charges and that the defendant is aware of
14 the nature of the charges and the relevant consequences of his
15 pleas of guilty.

16 And the Court further finds that his pleas of
17 guilty, on the advice of competent counsel, with whose
18 services he is satisfied is a knowing -- are knowing and
19 voluntary pleas supported by independent bases in fact,
20 sustaining each of the essential elements of -- with respect
21 to both offenses. And the plea is to be accepted and the
22 defendant is now adjudged guilty of the offenses as set forth
23 in the Count 1 of the indictment, conspiracy to commit mail
24 fraud, in violation of 18, United States Code, Section 1349,
25 and guilty as to the one-count criminal information charging

1 him with wire fraud in violation of 18, United States Code,
2 Section 1343.

3 Mr. Ulysse, a written presentence investigation
4 report will be prepared by Ms. Nicole Wonneman, the U.S.
5 Probation Office, to assist the Court in sentencing. And you
6 will be asked to give information for that report. And your
7 attorney, Mr. Bardos, will be with you when you meet with the
8 probation officer. And I'll permit both you and Mr. Bardos to
9 read the presentence investigation reports and to file any
10 objections to it. And both you and Mr. Bardos will be
11 afforded the opportunity to speak on your behalf at the
12 sentencing hearings. So I will refer you to the U.S.
13 probation office for the presentence investigation and report.

14 Your date of sentencing on both of these charges
15 will be on December 19, 2022, at 11:00 o'clock a.m. And I
16 will sign the regular sentencing order to that effect here
17 today. Ms. Wonneman's report will be due by November the 2nd.
18 If either side is going to call -- has any objections by
19 November 16th, they should be filed. After those objections
20 Ms. Wonneman will or will not modify her report. And she'll
21 file the report by November the 28th. Sentencing memoranda
22 are not required, but if either side desires to call any
23 witnesses, you should notify the Court and opposing counsel by
24 December 5th.

25 This regular sentencing order also provides that if

1 sentencing memorandum are filed, they should be filed by
2 December the 5th. As I think you all know, Counsel, I'm not
3 really a stickler for that. I don't want to get it two days
4 before, but if I get it the week before that is fine with me.
5 But this is a regular sentencing order we sign by agreement
6 with my colleagues and that will be filed immediately today as
7 well.

8 Now, we -- the defendant was in custody for a period
9 from March the 26th of 2021 to September 10 of 2021. And
10 he'll get credit for that time in state custody.

11 MR. BARDOS: Federal custody, Your Honor.

12 THE COURT: I'm sorry, March 26th, 2021 to September
13 10th of 2021.

14 MR. BARDOS: Federal custody.

15 THE COURT: Federal custody, yes, I meant to say
16 federal custody. In federal custody. I'm sorry, Mr. Bardos,
17 you are correct. For that period of time. And he's been on
18 release since September 10th of last year. And I'm afraid
19 that I've got some concerns here. There have been two
20 incidents of apparent violation according to Troy Scott the
21 supervising U.S. probation officer who has been coordinating
22 with Senior U.S. probation officer Danny McMillan in the
23 United States District Court in the Northern District of
24 Georgia.

25 And as I understand it, there was a violation --

1 alleged violation on February 1 of this year and again on
2 April 9 of this year with respect to violating conditions of
3 release by making unauthorized stops while on approved travel
4 from Georgia to Maryland, and having law enforcement contact,
5 and actually testing positive for marijuana on occasion. But
6 the -- he has not been violated up to this point. It does
7 note, and this is the report I've gotten recently, as of
8 today, that there are still some charges, Georgia charges
9 remaining against him. And there are offenses for simple
10 assault, hit and run, no insurance, et cetera.

11 What is the status of any Georgia -- you may be
12 seated for a minute, Mr. Ulysse. What is the status of any
13 Georgia state cases against him Mr. Bardos.

14 MR. BARDOS: Well, as I understand it, Your Honor,
15 they have not been pursued by the state of Georgia. And from
16 what I understand, from my client, at least with regard to the
17 last two, it's a matter of accumulating funds to be able to
18 pay the fines that would take care of that. So he has a job
19 now --

20 THE COURT: What is he doing?

21 MR. BARDOS: Pardon me.

22 THE COURT: What is he doing. What is his job?

23 MR. BARDOS: He is canvassing for two of the senate
24 candidates in Georgia.

25 THE COURT: He is doing what?

1 MR. BARDOS: Canvassing for two of the senate
2 candidates in Georgia.

3 THE COURT: All right. And he's being paid for
4 that.

5 MR. BARDOS: Yes, sir.

6 THE COURT: Is he still living with and in the
7 custody of Deshawna Lynn Brown.

8 MR. BARDOS: He is, Your Honor. I've had
9 conversations with Mr. Luco, who has indicated that because
10 Mr. Ulysse is on electronic home monitoring, and actually is
11 on a GPS tracker, that Mr. Luco believes that Mr. Ulysse no
12 longer needs a third party custodian because electronic
13 monitoring would be sufficient for pretrial services. But he
14 is still there.

15 THE COURT: Well, I don't have any intentions of
16 lessening.

17 MR. BARDOS: I wasn't asking --

18 THE COURT: The question is whether or not they're
19 going to suffice. The factors here are a little different
20 here under 18, United States Code, Section 3142 and 3143.
21 He's now pled guilty to two criminal charges. And the burden,
22 as you well know, Mr. Bardos, shifts here in terms of whether
23 I can find by clear and convincing evidence that he's not
24 likely to flee or pose a danger to any other person of the
25 community.

1 I don't know about his danger to the community,
2 there's no indication of that. But I had some strong concerns
3 whether he was even going to come here today or not, Mr.
4 Bardos. We had a rather exciting week as to your client.

5 MR. BARDOS: I understand that, Your Honor.

6 THE COURT: And we had a representation by him that
7 he couldn't afford to come and we went to a great deal of
8 effort as a courtesy to him, to proceed by Zoom proceedings.
9 And then it turns out that then he decided he was not even
10 going to appear before me by Zoom proceeding, after the Court
11 took all these steps to accommodate him, and suggested that he
12 wanted to have another -- he wanted to have time to hire
13 another attorney, which as far as I'm concerned I interpret to
14 be stalling with respect to a trial date that's coming up in
15 four weeks and he's been on release for a year. And suddenly
16 after a year he talks about wanting to find an attorney. So
17 then we were going to schedule an attorney inquiry hearing.
18 And Mr. Bardos, you always -- you always give great
19 representation to your clients. And you're one of the top
20 lawyers on our CJA committee as far as I'm concerned.

21 MR. BARDOS: Thank you, Your Honor.

22 THE COURT: And yet he decides he wants another
23 attorney. I'm pretty confident that if I hadn't said if he
24 wasn't in here bodily by 2:30 today, I was going to issue an
25 arrest warrant and have the Marshals arrest him, I have some

1 doubts he was going to come. And I don't think Mr. Ulysse
2 really gets it now in terms of how serious this is. And this
3 is a totally different ball game now. We have taken as great
4 of care as we can, and I've accepted his pleas of guilty. And
5 he is facing a minimum of four years in federal prison. And I
6 have some doubts about how much longer it would be in
7 everyone's interest for him to be out on release. And I want
8 you to address with me how I can find by clear and convincing
9 evidence that he's not a risk of flight.

10 MR. BARDOS: Well, Your Honor, there's no history
11 for Mr. Ulysse ever failing to show up in court. He's always
12 come to court when he's supposed to. The issues that you
13 mentioned with regard to the violations have nothing to do
14 with his fleeing or going anywhere. The first one, just to
15 clarify, he was allowed to -- his son is very ill, his son
16 lives in Maryland. And he was allowed by Judge Coulson to
17 travel to Maryland to see his son. What he did was on his way
18 there, he took a five mile detour to pick up a friend, then
19 drove back, and then drove up to Maryland. That was the
20 problem. But he was on a GPS monitor at the time, so there's
21 no question where he was. They know exactly where he was. So
22 that wasn't anything related to flight, Your Honor.

23 As for this week, Judge, without violating any --

24 THE COURT: Sure. I'm not trying to go into your
25 communications with your client, I'm just trying to

1 summarize -- am I not correct what occurred this week? We had
2 a rather exciting week on this case. It's now Friday
3 afternoon. He's finally here a few days after when he thought
4 he was going to plead guilty, after he represented he wasn't,
5 then he represented that he was going to plead guilty. We had
6 a rather little bit of a yo-yo effect on this case. Makes me
7 a little nervous, Mr. Bardos.

8 MR. BARDOS: I understand that, Your Honor, hasn't
9 done a lot for me either. But I can tell that you from my
10 understanding from Mr. Ulysse, his intention has been to plead
11 guilty. He had conversations over the weekend, he had
12 conversations on Monday with his family. And his family said,
13 look, we have property in Haiti, we have property in other
14 places, we could sell that property and get you a new lawyer.
15 It was never -- without being -- without being too conceited,
16 he's never had a problem with me. His family thought, this is
17 a lot of time, it's very serious stuff. Maybe we need to pay
18 a lawyer for you. See if the judge will allow us to do that.
19 And he had to borrow from -- I'm not even sure where, but he
20 had to borrow to get here today. We did ask if he could come
21 here, if he could appear by Zoom and the Court at that point
22 agreed.

23 THE COURT: Previously, we were going to do this
24 earlier in the week.

25 MR. BARDOS: Yes, sir. But then this intervention

1 came from his family. They tried to convince him he would get
2 a better situation with a different lawyer if they paid them.
3 Frankly, Your Honor, as CJA counsel I've heard that contention
4 before. It doesn't offend me.

5 THE COURT: I understand.

6 MR. BARDOS: But I understand people feel that way.
7 And that's what happened. So that's why we presented that on
8 Tuesday. But his position with regard to his responsibility
9 for these actions has never changed.

10 THE COURT: All right.

11 MR. BARDOS: So I think he understands fully what
12 the seriousness is. And, frankly, Your Honor, I think you
13 imparted that quite well on Tuesday. But, so that was the
14 situation. It wasn't that he wanted to, he didn't want to.
15 He never wavered. His family was trying to say maybe we can
16 do something better for you, and that was how --

17 THE COURT: Well, I'm not angry with him about that,
18 but it does pique my curiosity that he's been on release for a
19 year. He was charged in this crime originally -- the
20 indictment in this case March 2021, a year and a half ago.
21 And suddenly a year and a half after he's charged, a year
22 after he's been placed on release, and suddenly he has to face
23 the music here, he starts seeming to dodge around the
24 calendar. I was not going to permit it and I'm not going to
25 permit it.

1 So Mr. Delaney, do you have any reason to believe
2 that Mr. Ulysse risk of flight?

3 MR. DELANEY: Your Honor, if I'm being consistent,
4 the government has always actually maintained that Mr. Ulysse
5 should be held pending trial, we lost that argument back in
6 September.

7 THE COURT: I understand. Well, this is now
8 different factors involved.

9 MR. DELANEY: And I think Your Honor's right to
10 raise them and to have this conversation. And I can certainly
11 jump up and down on the table and state all the reasons --

12 THE COURT: Sure, I understand.

13 MR. DELANEY: -- felt previously. I will note for
14 the benefit of the record, he is here today as he said he
15 would be. And if Your Honor's inclined, I would defer to the
16 Court.

17 THE COURT: All right. Mr. Ulysse, if you'll stand
18 please, sir. As a result of this case you're going to go to
19 prison for at least four years, do you understand that?

20 THE DEFENDANT: Yes, I do, sir.

21 THE COURT: And you're going to be given credit for
22 time served for about six months in federal custody. And I'm
23 not really pleased with the way this was handled today. And
24 it's my view that you sent up warning signals to me about
25 this. And I'm going to strongly consider -- I'm not going to

1 put you in custody today, Mr. Ulysse. And I'm going to permit
2 you to return to Georgia under the same conditions as set by
3 Magistrate Judge Coulson, but I'm telling you if there is one
4 variation, if you go two blocks off the shortest route back to
5 Georgia and I hear there's a violation, I'm going to send out
6 the marshals to arrest you, do you understand that?

7 THE DEFENDANT: I understand, sir.

8 THE COURT: There's no wiggle room for mistakes
9 here, do you understand that?

10 THE DEFENDANT: Totally understand, sir.

11 THE COURT: All right. And Mr. Bardos, I'm going to
12 give strong consideration to ordering him to voluntarily
13 surrender at some point in time before he's sentenced. I
14 don't think we're going to wait until December. I'm concerned
15 about this, I think that the temptations for him are too
16 great. This is a massive financial fraud that's been alleged.
17 And I am -- I'm going to reflect on this. I'm not going to
18 step him back today and the same conditions of release will
19 apply. But the factors are totally different now that you've
20 come here under oath, pleading guilty to these offenses.

21 It's a different situation than was before my
22 colleague, Magistrate Judge Coulson, Mr. Ulysse. And I have
23 seen in the past on some occasions do some really dumb things.
24 And they don't show up when they're supposed to. And all the
25 sudden they multiply the effects here. I can recall one

1 specific case of a man who committed bank robbery. And he
2 pled guilty and he was on release. And he was sentenced and I
3 still let him be on release. And I gave him voluntary
4 surrender for the prison sentence, and on the day -- this is a
5 true story now, sir.

6 On the day he was to appear he totally panicked and
7 he and his girlfriend tried to rob a bank. Like right out of
8 the movies, Bonnie and Clyde. It turned out there was an
9 off-duty police officer in the bank. And mercifully the only
10 person injured was the defendant. He was shot. And three or
11 four months later he appeared in front of me in a wheelchair.
12 And he wound up going to prison, I guess, I think it was 20
13 some years as opposed to six or seven, because he panicked one
14 afternoon. So people do crazy things.

15 You are facing a minimum of four years in federal
16 prison and you're not getting any credit for time served right
17 now. You get credit from March to September of 2021, but not
18 one minute of your time for home detention or anything else
19 has been credited toward that sentence over the last year. Do
20 you understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And I'm trying to make sure we don't
23 have any major foul ups here?

24 THE DEFENDANT: I wouldn't do --

25 THE COURT: In terms of the danger to the community,

1 you endanger yourself and others, it concerns me. And I'm
2 going to let these same conditions apply. And I'm going to --
3 not going to make a finding by clear and convincing evidence
4 under 18, United States Code, Section 3143(a) and (b), but
5 I'm -- Mr. Bardos, I think it might be in his interest and
6 make everybody a lot more comfortable if we, in a very
7 civilized fashion, agree when he might want to surrender
8 before December. And, quite frankly, maybe another facility
9 that could be designated for federal custody that would not
10 necessarily be the Chesapeake Detention Facility here in
11 Baltimore, there's limited space. I could envision that he
12 could get credit for time served in federal custody to a
13 facility that could be designated in Georgia. Could that not
14 be possible, Mr. Delaney?

15 MR. DELANEY: I don't know, but I can certainly
16 ask.

17 THE COURT: I would like you to ask if you would.
18 Try to find out. We're not trying to put you in solitary
19 confinement or something, Mr. Ulysse, but I think that it
20 might be constructive under my consideration under factors
21 under Section 3143, it's very difficult for me to make a
22 really aggressive finding by clear and convincing evidence
23 that you're not a risk of flight or threat. You're not a
24 threat to the community physically.

25 THE DEFENDANT: I wouldn't --

1 THE COURT: You may or may not be. Now, Mr. Bardos
2 makes a good point, you did come here. But I will tell you, I
3 have to have a rather specific conversation with you in terms
4 of what the realities were going to be if you weren't in this
5 courthouse at 2:30 today. And I think that probably
6 registered with you finally.

7 THE DEFENDANT: It was no doubt that I wouldn't be
8 in court, sir. Not for a minute. The only issue that we had
9 was the day that I was supposed to take the plea, like I said
10 I spoke to my family the day before --

11 THE COURT: I understand.

12 THE DEFENDANT: And I have like ten people in my ear
13 saying don't do it, don't do it, don't do it. So I spoke to
14 Mr. Bardos. And that's it. Literally besides that, I'm not
15 going to do anything that's going to make my time, worse. You
16 know.

17 THE COURT: All right. Well, we'll -- I'm going to
18 continue the same conditions of release. But they're subject
19 to review. And I have the jurisdiction to review those
20 conditions at any time.

21 Correct, Mr. Delaney?

22 MR. DELANEY: Correct.

23 THE COURT: Correct, Mr. Bardos.

24 MR. BARDOS: Yes, sir.

25 THE COURT: And I think that it might be -- I think

1 I feel a lot more comfortable if we decide when you might want
2 to surrender. And believe me, if you were to surrender to
3 federal custody, not state custody, and you would get credit
4 for the time served before you come here in sentencing for the
5 final sentencing. I think it might be a step in the better
6 direction for you. So that's where we're going to leave this
7 for now.

8 Anything further from the point of view of the
9 government, Mr. Delaney?

10 MR. DELANEY: No. Thank you, Your Honor.

11 THE COURT: All right. Thank you.

12 Mr. Bardos, anything further from your point of
13 view?

14 MR. BARDOS: No. Thank you, Judge.

15 THE COURT: All right. Thank you, Mr. Ulysse, I
16 want you to understand I'm speaking just straight to you, so
17 you understand where I'm coming from, do you understand?

18 THE DEFENDANT: Yes.

19 THE COURT: You have a good lawyer there. He's
20 highly respected by the Court. And everything is very
21 civilized here. I'm not going to have you put in handcuffs
22 and taken through that door over here, but I'm going to tell
23 you, we didn't start right at 2:30 today and no one was sure
24 where you were --

25 THE DEFENDANT: I was here at 12:30.

1 THE COURT: All I know is the people talking to me
2 didn't know where you were in the courthouse, okay. You were
3 here, and that's fine. I'm not angry with you. Do I seem
4 like I'm angry? I'm not yelling at you?

5 THE DEFENDANT: No, sir.

6 THE COURT: I'm just trying to tell you these are
7 serious matters, you have to focus. You've had the luxury of
8 being out for a year now waiting for these charges to come to
9 trial. This case is going to trial in October, without any
10 question as to the other two defendants. No postponements.
11 That's all there is to it. So the time is up now. And I
12 think you need to get focused. And I think you are focused,
13 but I want you to understand, in the spirit which is intended,
14 I'm trying to make sure that you don't necessarily jeopardize
15 your own conditions and make it even worse than it is for you.
16 So do you understand?

17 THE DEFENDANT: Yes, sir, I do.

18 THE COURT: With that this court stands adjourned
19 for the day. Thank you all very much.

20 (The proceedings were concluded at 4:29 p.m.)

21
22 I, Christine Asif, RPR, FCRR, do hereby certify that
23 the foregoing is a correct transcript from the stenographic
24 record of proceedings in the above-entitled matter.

25
_____/s/_____
Christine T. Asif
Official Court Reporter

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